

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**MELISSA L. REX**  
**83 Live Oak Avenue**  
**Fairfax, CA 94930**

**Registered Nurse License No. 689841**

Respondent

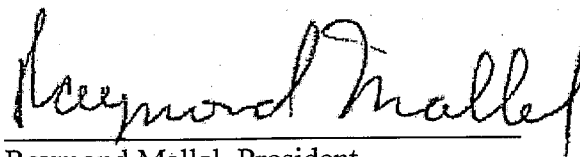
Case No. 2012-438

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary order for Public Reprimand is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **December 6, 2012.**

IT IS SO ORDERED **November 6, 2012.**



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 LESLIE E. BRAST  
Deputy Attorney General  
4 State Bar No. 203296  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
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*Attorneys for Complainant*

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8 LYDIA ZANE, Senior Legal Analyst  
Telephone: (415) 703-5573  
9 Facsimile: (415) 703-5480

10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12  
13 In the Matter of the Accusation Against:

Case No. 2012-438

14 **MELISSA L. REX**  
83 Live Oak Avenue  
15 Fairfax, CA 94930

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER FOR PUBLIC  
REPROVAL**

16 Registered Nurse License No. 689841

[Bus. & Prof. Code Section 495]

17 Respondent.  
18

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Louise R. Bailey, M.Ed., RN (Complainant), is the Interim Executive Officer of the  
23 Board of Registered Nursing. She brought this action solely in her official capacity and is  
24 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
25 Leslie E. Brast, Deputy Attorney General.

26 2. Respondent Melissa L. Rex (Respondent) is represented in this proceeding by  
27 Attorney Anthony M. Blalock, whose address is: 1990 N. California Blvd., #800, Walnut Creek,  
28 California, 94596.

1       3.     On or about October 2, 2006, the Board of Registered Nursing issued Registered  
2 Nurse License No. 689841 to Respondent. The Registered Nurse License was in full force and  
3 effect at all times relevant to the charges brought in Accusation No. 2012-438 and will expire on  
4 December 31, 2013, unless renewed.

5                                   JURISDICTION

6       4.     Accusation No. 2012-438 was filed before the Board of Registered Nursing (Board),  
7 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
8 and all other statutorily required documents were properly served on Respondent on February 15,  
9 2012. Respondent timely filed her Notice of Defense contesting the Accusation.

10       5.     A copy of Accusation No. 2012-438 is attached as Exhibit A and incorporated herein  
11 by reference.

12                                   ADVISEMENT AND WAIVERS

13       6.     Respondent has carefully read, fully discussed with counsel, and understands the  
14 charges and allegations in Accusation No. 2012-438. Respondent has also carefully read, fully  
15 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
16 Order.

17       7.     Respondent is fully aware of her legal rights in this matter, including the right to a  
18 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
19 her own expense; the right to confront and cross-examine the witnesses against her; the right to  
20 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to  
21 compel the attendance of witnesses and the production of documents; the right to reconsideration  
22 and court review of an adverse decision; and all other rights accorded by the California  
23 Administrative Procedure Act and other applicable laws.

24       8.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
25 every right set forth above.

26                                   CULPABILITY

27       9.     Respondent admits the truth of each and every charge and allegation in Accusation  
28 No. 2012-438.

10. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order for Public Reprimand is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Reprimand may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 689841 issued to Respondent Melissa L. Rex (Respondent) shall, by way of a letter from the Board's Executive Officer, be publicly reprimanded. The letter shall be in the same form as the letter attached as Exhibit B to this stipulation.

IT IS FURTHER ORDERED that Respondent shall pay the Board for its costs associated with the investigation and enforcement of this matter in the amount of \$3,842.50. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew her Registered Nurse License until Respondent pays costs in full.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Reprimand and have fully discussed it with my attorney, Anthony M. Blalock. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 7/19/2012

Melissa L. Rex  
MELISSA L. REX  
Respondent

I have read and fully discussed with Respondent Melissa L. Rex the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Reprimand. I approve its form and content.

DATED: 7/20/12

Anthony M. Blalock  
Anthony M. Blalock  
Attorney for Respondent

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Dated: July 24, 2012

KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General

LESLIE E. BRAST  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 2012-438**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 LESLIE E. BRAST  
Deputy Attorney General  
4 State Bar No. 203296  
455 Golden Gate Avenue, Suite 11000  
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Telephone: (415) 703-5548  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 LYDIA ZANE, Senior Legal Analyst  
Telephone: (415) 703-5573  
9 Facsimile: (415) 703-5480

10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-438

13 **MELISSA L. REX**  
14 **83 Live Oak Avenue**  
15 **Fairfax, CA 94930**  
**Registered Nurse License No. 689841**

**A C C U S A T I O N**

16 Respondent.

17  
18 Complainant alleges:

19 PARTIES

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs.

23 2. On or about October 2, 2006, the Board of Registered Nursing issued Registered  
24 Nurse License Number 689841 to Melissa L. Rex (Respondent). The Registered Nurse License  
25 was in full force and effect at all times relevant to the charges brought herein and will expire on  
26 December 31, 2013, unless renewed.

27 JURISDICTION

28 3. This Accusation is brought before the Board of Registered Nursing (Board),



1 Department of Consumer Affairs, under the authority of the following laws. All section  
2 references are to the Business and Professions Code unless otherwise indicated.

3 JURISDICTION

4 4. This Accusation is brought before the Board of Registered Nursing (Board),  
5 Department of Consumer Affairs, under the authority of the following laws. All section  
6 references are to the Business and Professions Code unless otherwise indicated.

7 STATUTORY PROVISIONS

8 5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,  
9 that the Board may discipline any licensee, including a licensee holding a temporary or an  
10 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
11 Nursing Practice Act.

12 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
13 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
14 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the  
15 Code, the Board may renew an expired license at any time within eight years after the expiration.

16 7. Section 2761 of the Code states in relevant part that the board may take disciplinary  
17 action against a certified or licensed nurse or deny an application for a certificate or license for  
18 any of the following:

19 ...

20 (f) Conviction of a felony or of any offense substantially related to the qualifications,  
21 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
22 conclusive evidence thereof.

23 8. Section 2762 of the Code states in relevant part that in addition to other acts  
24 constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act],  
25 it is unprofessional conduct for a person licensed under this chapter to do any of the following:"

26 ...

27 (b) Use any controlled substance as defined in Division 10 (commencing with Section  
28 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in

1 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
2 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
3 ability to conduct with safety to the public the practice authorized by his or her license.

4 (c) Be convicted of a criminal offense involving the prescription, consumption, or  
5 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
6 or the possession of, or falsification of a record pertaining to, the substances described in  
7 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
8 thereof.

9 ...

10 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
11 revoke a license on the ground that the licensee has been convicted of a crime substantially  
12 related to the qualifications, functions, or duties of the business or profession for which the  
13 license was issued.

14 10. Section 492 of the Code provides in pertinent part, that, notwithstanding any other  
15 provision of law, successful completion of any diversion program under the Penal Code, or  
16 successful completion of an alcohol and drug problem assessment program under Article 5  
17 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not  
18 prohibit any agency established under Division 2 (commencing with Section 500) of this code, or  
19 any initiative act referred to in that division, from taking disciplinary action against a licensee or  
20 from denying a license for professional misconduct, notwithstanding that evidence of that  
21 misconduct may be recorded in a record pertaining to an arrest.

22 11. Section 493 of the Code provides in pertinent part, that, notwithstanding any other  
23 provision of law, in a proceeding conducted by a board within the department pursuant to law to  
24 deny an application for a license or to suspend or revoke a license or otherwise take disciplinary  
25 action against a person who holds a license, upon the ground that the applicant or the licensee has  
26 been convicted of a crime substantially related to the qualifications, functions, and duties of the  
27 license in question, the record of conviction of the crime shall be conclusive evidence of the fact  
28 that the conviction occurred, but only of that fact, and the board may inquire into the

1 circumstances surrounding the commission of the crime in order to fix the degree of discipline or  
2 to determine if the conviction is substantially related to the qualifications, functions, and duties of  
3 the licensee in question.

#### 4 REGULATORY PROVISIONS

5 12. California Code of Regulations, title 16, section 1444, states in pertinent part that a  
6 conviction or act shall be considered to be substantially related to the qualifications, functions or  
7 duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness  
8 of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

#### 9 COSTS

10 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
11 administrative law judge to direct a licensee found to have committed a violation or violations of  
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
13 enforcement of the case.

#### 14 CAUSE FOR DISCIPLINE

##### 15 (Substantially Related Conviction)

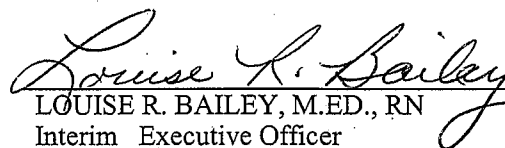
16 14. Respondent is subject to disciplinary action under sections 2761(f), 2762(b), 2762(c),  
17 and 490, as defined in section 1444, title 16, of the California Code of Regulations, pursuant to  
18 sections 492 and 493 of the Code, in that on or about March 29, 2011, in Superior Court of  
19 California, County of Marin, Case No. CR174110A, Respondent was convicted by her plea of  
20 guilty to violation of California Vehicle Code section 23152(b) for having driven with a blood  
21 alcohol level of .23%. Respondent's conviction arose from her January 22, 2011, arrest after  
22 having been observed making an illegal left turn and weaving in Fairfax, California. Imposition  
23 of sentence was suspended and Respondent was placed on a three-year term of probation under  
24 conditions including completion of a 9-month First Offender Program and payment of fines and  
25 court fees.

#### 26 PRAYER

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
28 and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 689841, issued to Melissa L. Rex
2. Ordering Melissa L. Rex to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: February 15, 2012

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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**Exhibit B**

**Letter of Public Reproval in Case No. 2012-438**



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

**Board of Registered Nursing**  
P O Box 944210, Sacramento, CA 94244-2100  
P (916) 322-3350 | [www.rn.ca.gov](http://www.rn.ca.gov)  
**Louise R. Bailey, M.ED., RN, Executive Officer**



November 6, 2012

Melissa L. Rex  
83 Live Oak Avenue  
Fairfax, California 94930

RE: LETTER OF PUBLIC REPROVAL  
In the Matter of the Accusation Against:  
MELISSA L. REX  
Registered Nurse License No. 689841

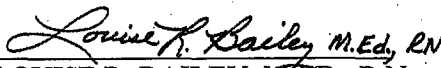
Dear Ms. Rex:

On February 15, 2012, the Board of Registered Nursing, California Department of Consumer Affairs, filed an Accusation against your Registered Nurse License. The Accusation alleged that you engaged in unprofessional conduct pursuant to Business and Professions Code sections 2761(f), 2762(b), 2762(c), and 490, arising from your March 2011 conviction for having violated California Vehicle Code section 23152(b) (driving with a blood alcohol level of .08 percent or higher).

Taking into consideration that you have been licensed since 2006 without prior discipline, that the Accusation alleged a single incident of misconduct with no further instances of disciplinary violations or criminal offenses in the intervening time period, that your compliance with Court mandated programs included completion of a 9 month first offender DUI program, that you produced positive work performance evaluations, letters of recommendation from your RN Supervisors, and other evidence of your rehabilitation that supports the determination that you are safe to practice as a registered nurse, the Board has decided that the charges warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided pursuant to Business and Professions Code section 495, the Board of Registered Nursing issues this letter of public reproof.

Sincerely,

  
LOUISE R. BAILEY, M.ED., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California